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DEPARTMENT OF COMMERCE

International Trade Administration

(C-560-831)

Biodiesel from the Republic of Indonesia: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) determines that countervailable subsidies are being provided to producers and exporters of biodiesel from the Republic of Indonesia (Indonesia). The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joseph Traw or Gene Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-6079 or (202) 482-3586, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on August 28, 2017.¹ A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final

¹ See *Biodiesel From the Republic of Indonesia: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 40746 (August 28, 2017) (*Preliminary Determination*).

determination, may be found in the Final Decision Memorandum.² The Final Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Final Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2016, through December 31, 2016.

Scope of the Investigation

The product covered by this investigation is biodiesel from Indonesia. For a complete description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix II of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the interested parties in this proceeding, are discussed in the Final Decision Memorandum. A list of the issues raised by the parties and responded to by the Department in the Final Decision Memorandum, is attached at Appendix I to this notice.

² *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Biodiesel from Indonesia," (Final Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), during September 2017, the Department verified the subsidy information reported by the Government of Indonesia, PT Musim Mas (Musim Mas), and Wilmar Trading Co., Ltd. (Wilmar Trading). We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondents.³

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination*. For a discussion of these changes, *see* the Final Decision Memorandum and the Final Calculation Memoranda.⁴

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, the Department calculated a countervailable subsidy rate for the individually investigated exporters/producers of the subject merchandise. Consistent with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, the Department also calculated an estimated "all-others" rate for exporters and producers not individually investigated. Section 705(c)(5)(A)(i) of the Act provides that the "all-others" rate shall be an amount equal to the weighted-average of the countervailable subsidy rates established for individually investigated exporters and producers, excluding any rates that are

³ See Memorandum, "Verification of the CVD Responses of the Government of Indonesia in the Countervailing Duty Investigation of Biodiesel," dated October 3, 2017; Memorandum, "Verification of the CVD Responses of Wilmar Trading Ptd. Ltd. and its Cross Owned Affiliates in the Countervailing Duty Investigation of Biodiesel," dated October 2, 2017; and Memorandum, "Countervailing Duty Investigation of Biodiesel from the Republic of Indonesia: Verification of the Questionnaire Responses Submitted by PT Musim Mas," dated September 28, 2017.

⁴ See Issues and Decision Memorandum dated concurrently with this determination; *see also* Wilmar Trading's Final Calculation Memorandum, dated concurrently with this determination, and Musim Mas's Final Calculation Memorandum, dated concurrently with this determination.

zero or *de minimis* or any rates determined entirely under section 776 of the Act. In this investigation, the Department calculated individual estimated countervailable subsidy rates for Wilmar Trading and Musim Mas that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, the Department calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁵

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates for PT Musim Mas and Wilmar Trading Co., Ltd., and their cross-owned entities.

Company	Subsidy Rate
PT Musim Mas	64.73 percent
Wilmar Trading Co., Ltd.	34.45 percent
All-Others	38.95 percent

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

⁵ With two respondents under examination, the Department normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. The Department then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data were available, the Department based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please see the All-Others' Rate Calculation Memorandum dated concurrently with this determination.

Continuation of Suspension of Liquidation

In accordance with sections 703(d) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of biodiesel from Indonesia, which were entered, or withdrawn from warehouse, for consumption on or after August 28, 2017, the date of publication of the *Preliminary Determination*.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of countervailable subsidies. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of biodiesel from Indonesia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue a CVD order directing CBP to assess, upon further instruction by the Department, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial

protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: November 6, 2017

Appendix I

List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Subsidies Valuation
- VII. Analysis of Programs
- VIII. Discussion of the Issues

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| Comment 1: | Whether payments from the oil palm plantation fund are countervailable. |
| Comment 2: | Whether the Department should treat OPPF payments as more than adequate remuneration program instead of a grant program. |
| Comment 3: | Whether the Department was correct to tie OPPF payments to all biodiesel sales. |
| Comment 4: | Whether the Department should offset any benefit to mandatory respondents by the amount of export levy they pay into the OPPF. |
| Comment 5: | Whether there is a basis for finding that the GOI entrusted or directed the provision of crude palm oil (CPO) for LTAR. |
| Comment 6: | Whether the Department should use a tier-one benchmark for CPO. |
| Comment 7: | Whether the Department should change its freight calculation for the CPO benchmark values. |

- IX. Conclusion

Appendix II

Scope of the Investigation

The product covered by this investigation is biodiesel, which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, including biologically-based waste oils or greases, and other biologically-based oil or fat sources. The investigations cover biodiesel in pure form (B100) as well as fuel mixtures containing at least 99 percent biodiesel by volume (B99). For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the investigation.

Biodiesel is generally produced to American Society for Testing and Materials International (ASTM) D6751 specifications, but it can also be made to other specifications. Biodiesel commonly has one of the following Chemical Abstracts Service (CAS) numbers, generally depending upon the feedstock used: 67784-80-9 (soybean oil methyl esters); 91051-34-2 (palm oil methyl esters); 91051-32-0 (palm kernel oil methyl esters); 73891-99-3 (rapeseed oil methyl esters); 61788-61-2 (tallow methyl esters); 68990-52-3 (vegetable oil methyl esters); 129828-16-6 (canola oil methyl esters); 67762-26-9 (unsaturated alkylcarboxylic acid methyl ester); or 68937-84-8 (fatty acids, C12-C18, methyl ester).

The B100 product subject to the investigation is currently classifiable under subheading 3826.00.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), while the B99 product is currently classifiable under HTSUS subheading 3826.00.3000. Although the HTSUS subheadings, ASTM specifications, and CAS numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

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